IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1420 OF 2005

IN

WRIT PETITION NO. 3954 OF 2004

Office Notes, Office Memoranda of : coram, appearances, Court's Orders: or directions and Registrar Orders:	Court's or Judge's orders

Mr.A.M. Joshi for the Petitioner.

Mr.N.V. Bandiwadekar for Respondents Nos.2 to 4.

Mr.S.R. Nargolkar, A.G.P. for Respondent No.1.

CORAM : H.L. GOKHALE &
MRS. R.S. DALVI, JJ.

DATE : 8TH JULY 2005

P.C. :

1. Heard the counsel for the parties.

2. The Civil Application prays that the Applicant be paid the gratuity, group insurance and 1/3rd commuted pension amounts.

3. Mr.Bandiwadekar for the Zilla Parishad points out that in view of the interim order passed by the Division

Bench on 15th July 2004, pension is being paid to the Applicant. No recovery is being effected. He submits that paying gratuity, group insurance and 1/3rd commuted pension amounts will amount to granting main reliefs in the petition and that was neither prayed in the Civil Application nor in the Petition. He further states that the question under consideration is whether the Petitioner is entitled to the trained graduate scale and promotion to the post of Head Master and the retirement benefits based thereon. Mr.Bandiwadekar submits that this question is under consideration and therefore the entire amount should not be released.

4. From amongst the amounts, which are claimed by the Petitioner, as far as Provident Fund is concerned, the contribution made by the Petitioner is his own and that being so, there is no reason why that portion should not be released to the Petitioner. The Petitioner has put in 30 years of service and therefore as far as the

gratuity and other benefits are concerned, they will be substantial and which will be adjusted in the event the petition is dismissed.

5. In the circumstances, we allow this Civil Application and direct the Zilla Parishad to release the Petitioner's own contribution to Provident Fund. Mr.Bandiwadekar is not in a position to make a positive statement whether the Provident Fund amounts are retained with the Zilla Parishad or they are forwarded to the Commissioner of Provident Fund. If that is so, Zilla Parishad will take it up with the Commissioner of Provident Fund to release the contribution of the Petitioner herein.

6. Civil Application stands disposed of with the above order.

(H.L. GOKHALE, J.)

(MRS. R.S. DALVI, J.)